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11 UNITED STATES DISTRICT COURT  
12 FOR THE  
13 NORTHERN DISTRICT OF CALIFORNIA

14 **HILDA L. SOLIS**,  
15 Secretary of Labor,  
16 United States Department of Labor,  
17 Plaintiff,

18 v.

19 **CUONG VIET DO**, an individual,  
20 Defendant.

) Case No. C10-04026 HRL

) Related Case No. C10-03823 LHK

) **~~PROPOSED~~ ORDER**

1 Having considered the Joint Stipulation as to Nondischargeability of Debt, entered  
2 into by Defendant-Debtor Cuong Viet Do (“Debtor”) and the Secretary of Labor, United  
3 States Department of Labor (“Secretary”), and for good cause shown, IT IS HEREBY  
4 ORDERED, ADJUDGED AND DECREED THAT:

5 1. The default entered against the Debtor is hereby set aside.

6 2. This Court has jurisdiction over this action.

7 3. Debtor is, and was, at all relevant times, a fiduciary of the Plan within the  
8 meaning of § 3(21), 29 U.S.C. § 1002(21), of the Employee Retirement Income Security  
9 Act of 1974 (“ERISA”).

10 4. The Mili Group Retirement Plan (“Plan”) is an employee benefit plan within  
11 the meaning of ERISA § 3(21), 29 U.S.C. § 1002(21).

12 5. The debt to the Plan arises from Debtor’s alleged breaches of his ERISA fi-  
13 duciary duties owed to the Plan. Such alleged breaches also constitute fiduciary defalca-  
14 tion within the meaning of Section 523(a)(4) of the Bankruptcy Code, 11 U.S.C. §  
15 523(a)(4).

16 6. The parties agree that the amount of the debt owed to the Plan is \$155,000.

17 7. Debtor’s debt to the Plan in the amount of \$155,000 is a nondischargeable  
18 debt under Section 523(a)(4) of the Bankruptcy Code, 11 U.S.C. § 523(a)(4).

19 8. The Debtor shall repay the debt to the Plan according to the payment sched-  
20 ule set forth in the Consent Judgment & Order submitted in Case No. 10-03823. Such  
21 payment schedule shall include the assessment of interest. The Debtor shall not use any  
22 assets from the bankruptcy estate to repay the debt.

23 9. Nothing in the Joint Stipulation as to Nondischargeability of Debt is binding  
24 on any governmental agency other than the Employee Benefits Security Administration,  
25 United States Department of Labor.

26 10. The parties shall bear their own costs, expenses, and attorneys’ fees incurred  
27 in connection with any stage of the above-referenced proceeding to date, including but  
28

1 not limited to, attorney's fees which may be available under the Equal Access to Justice  
2 Act, as amended.

3 11. The Stipulation and accompanying Order represents a full, final and com-  
4 plete judicial resolution of all claims alleged against the Debtor in the Secretary's Adver-  
5 sary Complaint. The Court directs entry of this Order as a final order.  
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9 IT IS SO ORDERED.  
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12 Dated: May 27, 2011  
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United States District Judge